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DECISION



William J. ...
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: D-189655

DATE: November 15, 1977

MATTER OF: Vehicle Systems Development Corporation

DIGEST:

Determinations concerning technical merits of proposals are matters of agency discretion which will not be disturbed unless shown to be unreasonable or in violation of statute or regulation; therefore, agency selection of technically superior but higher priced offer for award of cost-plus-fixed-fee contract is not legally objectionable where record shows that technical evaluators could reasonably find awardee's proposal to be technically superior to other proposals.

Vehicle Systems Development Corporation (VSDC) protests the award of a cost-plus-fixed-fee contract by the U.S. Army Tank-Automotive Research and Development Command to Applied Engineering Resources, Inc. (AER) under request for proposals (RFP) No. DAAK30-77-R-0008. The procurement was for a concept feasibility analysis for a "device to load, transport and unload standard rigid wall shelters without the assistance of supplementary equipment."

Protester bases its protest on its 14 percent lower price offer, claiming that its proposal was "definitively competitive" from a technical standpoint. In its comments filed on the agency report, VSDC attacks the technical judgment of the Army evaluators.

The RFP placed technical considerations ahead of cost as an evaluation factor, stating that "[o]f the major factors, Technical is of primary importance and worth more than cost." Although negotiations were conducted with six other offerors in addition to AER and VSDC, we will confine our discussion to the latter two, which were the highest rated technically.

The record shows that for the purpose of evaluation, technical considerations were weighted at 85 percent. Technical proposals were evaluated both by the U.S. Army Tank-Automotive Research and Development Command and the U.S. Army Natick Research and Development Command. Both commands rated the AER technical proposal higher than the VSDC proposal, with initial composite technical scores and cost scores as follows:

| | Technical | Cost | Total (Max. =100) |
|------|-----------|------|----------------------|
| AER | 66.9 | 14.8 | 81.7 |
| VSDC | 53.5 | 14.5 | 68.0 |

The other offerors total scores ranged downward from 66.7.

Negotiations were conducted and best and final offers received, with the following result:

| | Estimated Cost and fixed fee | Technical score | Cost score | Total score |
|------|---------------------------------|--------------------|---------------|----------------|
| AER | \$59,349 | 67.8 | 14.8 | 82.6 |
| VSDC | \$52,029 | 57.3 | 14.7 | 72.0 |

We believe the foregoing demonstrates the protester's proposition that it was "technically competitive" throughout the competition. However, even though our review of the record shows that the protester's proposal was well regarded, the AER proposal was generally scored higher by the evaluators in each of the technical categories evaluated. As stated in the agency's report:

"The AER proposal provided analysis methodology to perform trade-off studies and to establish vehicle parameters that the evaluators considered to be excellent. AER's concept generation procedure indicated an orderly step-by-step progression, including flow diagrams, which was considered to be most likely to assure the Government of the superior concepts. AER proposed two methods of evaluating concepts generated: the first would evaluate the relative merit between concepts developed in a particular

category; the second method would evaluate absolute performance of the selected design against the final selected criteria. The combined use of these methods of concept evaluation were highly regarded by the evaluators. In addition, the AER proposal displayed superior techniques of description and graphic representation. Their system analysis and value engineering analysis were also rated highly.

"The VSDC proposal * * * indicated a well regarded concept analysis methodology to perform trade-off studies and to establish vehicle parameters. The VSDC approach would utilize a 'brainstorming' analysis technique to generate concepts. However, 'brainstorming' for a short term effort, such as that required by the contract in question [6 months], was considered to be less likely to produce desired results than would a more orderly and structured approach. VSDC's proposed method of evaluating concepts would develop an average or baseline concept from the concepts generated by 'brainstorming' and then evaluate each concept against that baseline. Again, the technical evaluators indicated that this was a good approach, but not as likely to produce desired results as the AER approach. VSDC's system's analysis and value engineering analysis were rated highly."

It is not the function of our Office to evaluate proposals and we will not substitute our judgment for that of the contracting officials by making an independent determination as to which offeror in a negotiated procurement should be rated first and hereby receive an award. The overall determination of the relative desirability and technical adequacy is primarily a function of the procuring agency and, in this regard, we have recognized that the contracting officer enjoys a reasonable range of discretion in the evaluation of

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proposals and in the determination of which offer or proposal is to be accepted for award as in the Government's best interest. Since determinations as to the needs of the Governments are the responsibility of the procuring activity concerned, the judgment of such activity's specialists and technicians as to the technical adequacy of proposals submitted in response to the agency's statement of its needs ordinarily will be accepted by our Office. Such determination will be questioned by our Office only upon a clear showing of unreasonableness, an arbitrary abuse of discretion, or a violation of the procurement statutes and regulations. Teledyne Ryan Aeronautical, B-187325, May 20, 1977, 77-1 CPD 352.

We have reviewed the technical evaluation and find that the conclusions reached had a reasonable basis. Although the protester does not agree with the evaluation or would not have agreed that the AER proposal was superior that fact does not render the evaluation unreasonable.

Consequently, even though the VSDC proposal was considered "technically competitive", award to that firm would not have been warranted under the announced evaluation criteria--where technical considerations were paramount to cost. This is particularly so in a cost-type contract, where estimated costs "should not be considered as controlling, since in this type of contract advance estimates of cost may not provide valid indicators of final actual costs." Armed Services Procurement Regulation 3-803(c) (1976 ed.).

The protest is denied.


Deputy Comptroller General
of the United States